THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23110 of 2007

Dated: 06.12.2007

Between:

Pannalal

… Petitioner

AND

The Greater Hyderabad Municipal Corporation,
Sherilingampally, Circle-II, Chandanagar,
Hyderabad rep., by its Deputy Commissioner.

… Respondent

Counsel for the petitioner : Sri S.R. Ashok, Senior Counsel for
Sri C.V.R. Rudra Prasad

Counsel for the respondent : Sri Polisetty Radha Krishna
SC for the respondent.

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ORDER:-

This writ petition is filed for a writ of mandamus to set aside proceedings dated 21.09.2007, whereunder the application of the petitioner for building permission has been negatived.

Shorn of unnecessary details, the facts are that the petitioner claims to be the owner of Ac.0.32 guntas of land in Sy.No.224 of Madinaguda Village, Hafizpet Gram Panchayat, Serilingampally Mandal, Ranga Reddy District. The petitioner filed an application for constructing a farmhouse and a compound wall along with plan on 13.09.2007 to the respondent and the same was received on 14.09.2007. By the impugned proceedings, the said application was rejected and this order is assailed in this writ petition.

Heard Sri S.R. Ashok, learned Senior Counsel assisted by Sri C.V.R. Rudraprasad for the petitioner and Sri Polisetty Radha Krishna, learned Standing Counsel for the respondents.

A perusal of the impugned order, which is described as notice, shows that the petitioner's application for grant of permission for constructing building is rejected on three grounds, namely, i) that the site is not covered by any approved layout or an approved sub-division, ii) the petitioner filed Writ Petition No.8473 of 2006, which was pending in the High Court, and iii) "No

Objection Certificate" from ULC Department is not produced.

At the hearing, Sri Radha Krishna invited my attention to the averments in the counter-affidavit in which it is mentioned that before the area was merged into Serilingampally Municipality, the Gram Panchayat of Chandanagar approved the layout plan in respect of a larger area of which the land in dispute forms part and that an extent of 4050 square yards was earmarked for public purpose, namely, park and school. It is further averred that after the merger of the said Gram Panchayat into Serilingampally municipality, a proposal was made by the said municipality to the Hyderabad Urban Development Authority to regularize the said layout and that the same is not yet regularized.

As rightly pointed out by Sri S.R. Ashok that the reasons, which are mentioned in the counter-affidavit, are not reflected in the impugned order of rejection. Further, he contended and which contention is not disputed by the learned Standing Counsel that for a farmhouse no approved layout or sub-division is required. Since for the first time, the respondent has come out with pleas, which are not contained in the impugned order, they cannot be countenanced in view of the well settled legal position that the respondent by way of affidavits filed in the Courts cannot add to or supplement the reasons contained in his order (see **Commissioner of Police, Bombay v. Gordhandas Bhanji** (AIR 1952 SC 16) and **Mohinder Singh Gill v. Chief Election Commissioner, New Delhi** (AIR 1978 SC 851).

In the above circumstances, the writ petition is allowed and the order impugned is set aside. The matter is remitted to the respondent for considering the application of the petitioner afresh after giving him an opportunity of personal hearing.

The respondent shall complete the process of disposal of the petitioner's application within a period of four weeks from the date of filing of the fresh application by the petitioner for sanction of building plan.

As a sequel to disposal of the writ petition in the manner indicated above, WPMP.No.30114 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 06.12.2007
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